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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR         | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|------------------------------|---------------------|------------------|
| 10/796,758  | 03/09/2004  | Sjoerd Johannes van Driesten | AVERP3447USA        | 4363             |
| 7590  | 04/25/2006  |                              | EXAMINER            |                  |
| Heidi A. Boehlefeld<br>Renner, Otto, Boisselle & Sklar, LLP<br>Nineteenth Floor<br>1621 Euclid Avenue<br>Cleveland, OH 44115-2191 |             |                              | TRAN, THAO T        |                  |
|   |             | ART UNIT                     | PAPER NUMBER        | 1711             |
|   |             | DATE MAILED: 04/25/2006      |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                          |                               |  |
|------------------------------|--------------------------|-------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b>   | <b>Applicant(s)</b>           |  |
|                              | 10/796,758               | DRIESTEN, SJOERD JOHANNES VAN |  |
|                              | Examiner<br>Thao T. Tran | Art Unit<br>1711              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 March 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11, 18-20 and 41-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11, 18-20 and 41-45 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.

- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. This is in response to the Reply filed on 3/16/2006.
2. Claims 1-11, 18-20, and 41-45 are currently pending in this application. No claims have been amended.
3. The rejections in the prior Office action of 2/07/2006 are maintained as follows.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-11, 18-20, and 41-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Driesten et al. (WO 00/46316) cited in the IDS filed on 5/28/2004, or Van Driesten et al. (EP 1026215A1).

Van Driesten (WO ‘316) discloses an adhesive article, comprising a face construct 11, a release layer 13, a pressure-sensitive adhesive (permanent) layer 14, a polyester layer 15, a pressure-sensitive adhesive layer 12, a non pressure sensitive adhesive layer 2, a release layer 32, a liner layer 37, a pressure sensitive adhesive layer 36, a release layer 33, and a liner layer 31 (see claims 1-23; Fig. 14A).

Layers 11, 31, and 37 are made of paper and plastic film of a polyolefin, such as polyethylene and polypropylene, or a polyester, such as polyethylene terephthalate (see claims 19-21; page 15, 2<sup>nd</sup> paragraph). The PSA adhesive and non-PSA adhesive can be hotmelt

adhesive and rubber-based or acrylic-based (see page 9, ln. 21-33; page 11, ln. 24-37; page 19, ln. 23-36).

Van Driesten further discloses the laminate being laminated on a roll of face material 8 to yield a roll of single or double ply label laminate 10 or 40 (see paragraph bridging pages 16-17).

Although the reference does not specifically teach the substrate to be moisture resistant, the adhesive to be removable and resealable in the presence of moisture from food packaging environments, or its Moist Loop Test result, since the reference teaches the same components in the laminate, the laminate would inherently have all the same properties as presently claimed.

The same arguments are presented with respect to Van Driesten (EP '215).

6. Claims 1-8 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Navarini et al. (US Pat. 6,056,141). This reference is equivalent to EP-0661154A cited in the IDS filed on 5/28/2004.

Navarini discloses a laminate, comprising a top layer 2, a repositionable adhesive 4, an inner layer 3, and a protective layer 5 (see col. 2, ln. 35-51). Adhesive layer 4 is acrylic-based (see col. 4, ln. 17-20). Layer 2 can be a multilayer, comprising an outer support film 2' of paper or PET, OPA, OPP; polyurethane adhesive; a barrier film 2'' of EVOH or PVDC; another polyurethane adhesive; a support film 2'''; a redepositable adhesive 4 of acrylic base. Layer 3 can also be multilayer, comprising a support film, an PU adhesive, a sealing film of polyolefin. (See Figs. 5B-5C; col. 5, ln. 29-49).

Although the reference does not specifically teach the substrate to be moisture resistant, the adhesive to be removable and resealable in the presence of moisture from food packaging

environments, or its Moist Loop Test result, since the reference teaches the same components in the laminate, the laminate would inherently have all the same properties as presently claimed.

7. Claims 1-4, 18, 41-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Bane (US Pat. 5,366,087), cited in the IDS filed on 9/29/2005.

Bane discloses a label to reseal a package, comprising a substrate 11 of paper or plastics. On one face of the substrate, there is a thermally sensitive coating 12 having a perforated line bisecting the substrate. And on the other face of the substrate are coatings 14 and 15 of adhesive on opposite sides of the perforated line. Coating 14 is a permanent pressure sensitive and hotmelt adhesive and coating 15 is a repositionable adhesive (removable and resealable) (see Figs. 1-4; paragraph bridging col. 2-3; col. 3, ln. 57-68). A release liner 16 covers the coatings 14 and 15, or coating 12 so as to provide a roll of such labels (see col. 3, ln. 8-23).

Although the reference does not specifically teach the substrate to be moisture resistant, the adhesive to be removable and resealable in the presence of moisture from food packaging environments, or its Moist Loop Test result, since the reference teaches the same components in the laminate, the laminate would inherently have all the same properties as presently claimed.

### **Remarks**

8. Applicants are reminded that it is the structural elements, not properties or functions, that impart patentability when an article claim is being considered. To distinguish the presently claimed invention from the prior art, Applicants should include structural elements that give the article its' properties that are being claimed.

*Response to Arguments*

9. Applicant's arguments filed on 3/16/2006 have been fully considered but they are not persuasive.

In response to Applicant's arguments that none of the references discloses the PSA adhesive layers to be removable and resealable in the presence of moisture from food packaging environments, or the same Moist Loop Test result as presently claimed, it is noted that so long as the reference discloses the same chemical components in the adhesive as presently claimed, the reference's adhesive would inherently be removable and resealable in the same way and it would also inherently give the same Moist Loop Test result. As pointed out in the examiner's Remarks in the Office action of 2/07/2006, to distinguish the presently claimed invention from the prior art, Applicants should include structural or chemical elements that give the article its' properties that are being claimed, and not properties or functions.

With respect to Applicant's argument that van Driesten WO '316 does not provide any particular polyacrylates, but uses broad categories of acrylic-based PSAs, it is noted that the instant claims recite acrylic-based PSAs without any particular polyacrylates. Thus, the adhesive of WO '316 would read on the presently claimed invention.

The same arguments are presented with respect to Applicant's arguments on EP '215, Navarini '141, and Bane '087.

10. In summary, Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections. Furthermore, Applicant's

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arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thao T. Tran whose telephone number is 571-272-1080. The examiner can normally be reached on Monday-Friday, from 9:00 a.m. - 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tt  
April 21, 2006

*Thao Tran*  
**THAO T. TRAN**  
**PATENT EXAMINER**